

REMARKS

This paper is filed in response to the Office action mailed Nov. 10, 2003, in which claims 1-7 are again rejected. With this paper, the claims on file are unchanged, and so claims 1-7 remain in the application.

Claim rejections

In section 2 of the Office action, the Office action states simply that, "Claims 1-7 were rejected and remain rejected upon review," and then responds to applicant's arguments (also in section 2).

First the Office action responds that "pay for view is well known as in the internet dating services and HBO; it would have been obvious to bill for a specific program as it would have been to bill for time as the telephone company does for internet usage."

Applicant respectfully submits that the Office action does not show how internet dating services and HBO, prior to the invention, taught or suggested the invention as in any of the claims of the application. For example, claim 1 recites:

→ A method of billing (a consumer), by a third party, for access by a consumer to information made available by a vendor over a computer network, with the billing based on how long the consumer elects to access the information, the method comprising the steps of: when a consumer visits a vendor network address and decides to purchase access to information from the vendor, having the consumer exercise a link that will connect the consumer to the third party; having the third party initiate billing and connect the consumer to a location of the vendor where the information resides, wherein, in initiating billing of the consumer, the third party begins timing access by the consumer to the information made available by the vendor; and making available a means by which the third party is made aware of

when the consumer finishes accessing the information.

Where is there a teaching or suggestion in the internet dating services prior art or the HBO prior art of a consumer exercising a link that will connect the consumer to a third party so as to allow timed access to information and billing for same? Or where in the prior art is there a teaching or suggestion of combining the teachings of the internet dating services prior art or the HBO prior art so as to provide the invention as claimed? As far as applicant's attorney is aware, in case of HBO charging for a program, a consumer does not exercise a link to a third party in ordering the program, and (as far as applicant's attorney knows) the charge is for the program, not for the time the consumer chooses to spend viewing the program (i.e. if the consumer thinks the program stinks, and so turns it off, the consumer is still charged for the entire program).

Also in response to applicant's arguments, the Office action states that "it is obvious for one to segregate the billing aspect to a third party provider of such services if the website is not capable of performing the function as Ebay does with Paypal." Applicant respectfully submits that the invention is not merely to "segregate" the "billing aspect" to a third party, but is instead (as claimed) a mechanism enabling a third party to measure the time of access to information provided by a vendor, and for billing by a third party based on the timed access. Where in the Ebay prior art is there such a teaching or suggestion?

Also in response to applicant's arguments, the Office action states that "With respect to page 7 [of applicant's response to the prior Office action] it would be obvious to make optional that which is presumably mandatory in this context for user flexibility by offering a choice." This is apparently in response to applicant's statement pointing out that the Examiner's use of

Toader (U.S. Pat. No. 5,774,869) in rejecting the claims of the application requires equating--one the one hand--a consumer choosing to pay to see information of interest to the consumer as in the invention, to--on the other hand--Toader's teaching of forcing a user to view a web page (in a tour of the corresponding web site described as "mandatory") in order to be allowed to surf the Internet (anywhere) for a limited time after taking the forced tour. What Toader discloses is not at all the same as a mechanism by which a consumer can access specific information and pay for just the time spent accessing the information, as provided by the invention in all of the claims of the application. Applicant respectfully submits that equating Toader's forced tour with the timed pay-for-view mechanism provided by the invention stretches credulity beyond its limits.

Also in response to applicant's arguments, the Office action also states that,

...it is well known that a credit card company as a third party bills the consumer on behalf of the vendor. Thus, the use of intermediaries, brokers and agents is well known in the financial aspects of the retail art.

Applicant of course does not dispute the use of third parties for billing consumers, but the use of third parties in the invention is like the use of a bolt in an apparatus; though bolts are known, the apparatus may still be new and non-obvious. Applicant respectfully submits that the Office action does not show how the prior art teaches or suggests the entirety of even a single element of the invention as claimed. In the invention as claimed (in all of the claims), a third party is "linked to" (connected to via a link on a web page) by a consumer in the course of choosing to pay to access specific information, and ends up being billed for the time the consumer does access the information. For example, claim 1 recites, "when a consumer visits a vendor network address and decides to purchase access to information

from [a] vendor, having the consumer exercise a link that will connect the consumer to [a] third party." Where in the prior art is there either the teaching of providing such a link?

The Office action (still in section 2) notes, in summary, that:

....an ISP (internet service provider) can provide the services that Applicant claims as his invention. It is well know (sic) that these include billing and number of hits for a site which are operations a very small website cannot perform. As the telephone company times internet usage, an ISP can also apply analogous software to time the useage for a website.

Applicant respectfully observes that the Office action has merely asserted that what is (allegedly) prior art teaches one or another component required by the invention, but never even asserts that the prior art actually teaches or suggests all of the elements of the invention as in any of the claims of the application, let alone explains any grounds for combining the teachings of different prior art to arrive at the invention as claimed. The Office action instead merely indicates what could be done ("an ISP ... can provide ..." and "an "ISP can also apply ...") and asserts without justification the obviousness of using the technologies of the indicated art to provide the invention.

Applicant respectfully requests that the Examiner specifically point out where in the prior art there is a teaching or suggestion of ~~first~~ each of the individual elements of the invention, and then a teaching or suggestion of combining the technologies referred to in the Office action so as to provide the invention as claimed. Applicant respectfully submits that applicant is entitled to such a showing per the MPEP at 706.02(j), which explains that to combine references so as to ground a rejection based on obviousness, the Examiner must establish a *prima facie* case of obviousness, which requires

first, that there be "some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings," second, that "there must be a reasonable expectation of success," and third, that the combination made in the Office "teach or suggest all the claim limitations." [Emphasis added.] Applicant respectfully submits that the Examiner has not made any of the three showings required of a *prima facie* case for obviousness.

The inventor himself--a recent Ph.D. in mathematics from Princeton University--has asked to be heard here. According to the inventor, even assuming, for purposes of argument, that it is obvious that one could use a third party to conduct billing for access to information (web, phone, HBO, etc.), and that the connection to that third party be initiated by a consumer invoking a special "link" (URL, phone number, menu system, etc.) provided by an originating resource (web site, phone company, ISP, phone company, cable company), what is still not obvious is the appropriate method to use to enable the consumer to terminate both the connection and the billing simultaneously, in a way that is fair to both the consumer and the provider of the content. Fairness here, according to the inventor, is a highly non-trivial concept, particularly in the context of the underlying technical issues coupled with the largely anonymous and often hostile nature of the internet. In the invention as claimed in claim 1, there is recited a step of making available a means by which the third party is made aware of when the consumer finishes accessing the information. In independent claim 2, there is recited a step in which, if the consumer exercises the end session link, which redirects the consumer to the third party, the third party notifies the vendor that the consumer access is terminated, and the third party stops billing the consumer. Claim 5, the only other independent claim of the application, includes a

corresponding step. Applicant respectfully submits that none of the art referred to in any of the Office actions teaches or suggests such a mechanism for stopping the billing for access to information after a length of time controlled by the consumer.

In arriving at the invention as claimed especially in regard to the mechanism for stopping the billing, the inventor has explained that he was imagining people paying for data feeds that are quite different from fixed-length broadcast TV programs. For example, specialized stock market tickers, sports tickers, home psychics, or anything where the duration of the content desired may not be known in advance. To serve this market, he was trying to select a method that is: practical; technically feasible; certain to perform correct metering regardless of who terminates the connection, or why; and would be performed accurately by an entity without any handling of the data stream by the entity itself (unlike the case of an ISP, phone, or cable company providing metering, since all of these entities handle the data stream being charged for).

In summary, the inventor wishes to comment that to merely say that one can imagine ways in which a consumer of content could terminate billing using existing systems is not fair. The prior art referred to by the Examiner does not suggest how to accomplish terminating billing as in the invention, which the inventor believes is a way that both consumer and content provider would consider fair, or for that matter using any mechanism that allows a consumer to say when.

For all of the foregoing reasons, it is respectfully requested that the rejections of claims 1-7 be reconsidered and withdrawn.

CONCLUSION

For the reasons given above, it is believed that all claims in the application are in condition for allowance and their passage to issue is earnestly solicited.

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Respectfully submitted,


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